

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:11-cr-90-2

ROBERT DEMETRIUS CRONER,

Defendant.

**MEMORANDUM OPINION AND ORDER**

On November 2, 2014, the United States Sentencing Guidelines were amended to reduce the guidelines in Section 2D1.1 by two levels for most drug offenses. (U.S.S.G. Amendment 782, Appx. C). Section 1B1.10 gives retroactive effect to these reductions and sets an effective date of November 1, 2015, for retroactively reduced sentences. On January 12, 2015, and January 22, 2015, the Defendant filed his two identical *Motion[s] for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3482(c)(2)*. (Documents 782 & 794). On August 10, 2016, the Court entered an *Order* (Document 830) appointing the Federal Public Defender to represent the Defendant and directing the parties to respond with their positions respecting the application of Amendment 782 to the Defendant's case.

The Court has received and considered the Defendant's motions for a sentence reduction, the original Presentence Investigation Report (PSR), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and the addendum to the PSR from the Probation Officer. In addition, the Court has reviewed the responses from the United States (Document 831) and the Defendant (Document 832), submitted in accordance with the Court's *Order*. The Court

has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

The Defendant pled guilty to conspiracy to distribute more than 100kg of marijuana for remuneration, in violation of 21 U.S.C. §846, on July 28, 2011. The PSR attributed to him between 400 and 700 kilograms of marijuana, which at the time resulted in a base offense level of 28. He received a three-level enhancement for his leadership role in the offense, and a three-level reduction for acceptance of responsibility, resulting in a total offense level of 28. He was in criminal history category VI, based on a criminal history score of 12, and the addition of two points for committing the relevant offense in this case while under a criminal justice sentence. His original guidelines range was 140-175 months. On December 1, 2011, the Court imposed a sentence of one hundred fifty-one (151) months of imprisonment. Under the amended United States Sentencing Guidelines, the Defendant's total offense level is 26. The revised Guidelines range is 120 to 150 months. He is, therefore, eligible for a sentencing reduction.


Since the Defendant was sentenced, he has completed the Inmate Financial Responsibility program and the 40-hour drug education program offered by the Bureau of Prisons. However, the Defendant has received sanctions for violations of Bureau of Prisons rules, specifically, rules concerning the use of drugs and alcohol.

In its response, the United States indicated that it had no objections to the conclusions of the United States Probation Officer, and did not object to a reduction of the Defendant's sentence. The Defendant also argued that his sentence should be reduced, and asserted that his disciplinary infractions while incarcerated were resolved administratively, and "should not preclude him from receiving a reduction in his sentence." (Mem. of Def., at 2.) The Defendant urges the Court to reduce his sentence to 120 months. (*Id.* at 4.)

Having considered the Defendant's original and amended guideline ranges, the original sentencing materials, the addendum to the PSR, and the parties' responses, the Court **ORDERS** that the Defendant's base offense level be reduced by two levels to twenty-six (26). After consideration of a three-level enhancement for a leadership role, and a three-level reduction for acceptance of responsibility, the Defendant's new total offense level is **26**. Given his criminal history category of **VI**, a revised guideline imprisonment range of **120 to 150 months** is established. The Court further **ORDERS** that the Defendant's *Motion[s] for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3482(c)(2)* (Documents 782 & 794) be **GRANTED**, and that the Defendant's sentence be **REDUCED to one hundred twenty (120) months**.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to the Defendant and counsel, to the United States Attorney, to the United States Probation Office, and to the Office of the United States Marshal.

ENTER: May 4, 2018

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA